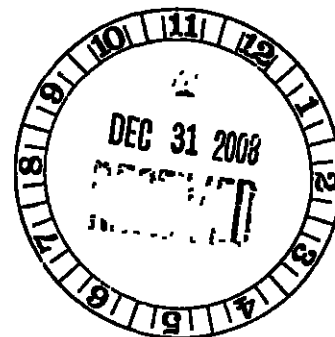




**Department of Energy**  
Washington, DC 20585

December 31, 2008



Chairman Charles D. Nottingham  
Office of Chairman  
Surface Transportation Board  
395 E Street, SW  
Washington, D C. 20420-0001

224278  
224279  
RE. Docket Nos. 38302S and 38376S

ENTERED  
Office of Proceedings  
DEC 31 2008  
Part of  
Public Record

Dear Chairman Nottingham:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF hope to meet during the next month to continue discussions, and the Government is awaiting Norfolk Southern's response to information supplied by the Government following the parties' June 17, 2008 meeting.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of March 2009.

Sincerely,

Stephen C. Skubel  
Assistant General Counsel  
For Litigation  
(202) 586-5579

cc: Vice Chairman Francis P. Mulvey  
Board Member W. Douglas Buttrey  
Attached Service List

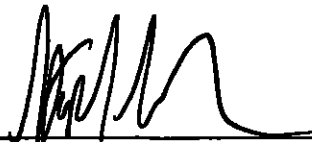


### **CERTIFICATE OF SERVICE**

I, Stephen C. Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 31st day of December, 2008, on the following:

Aberdeen & Rockfish R R. Co. P O Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
Paul Hitchcock Associate General Counsel CSX Transportation, Inc. 500 Water Street - J150 Jacksonville, FL 32202	Theodore K. Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N.W Suite 500 North Building Washington, D.C. 20004
Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co 75 Hammon Street Worcester, MA 01610	Robert G. Culliford, Esq. Guilford Transportation System Iron Horse Park North Billerica, MA 01862
Richard D. Robey, President North Shore Railroad Company 356 Priestly Avenue Northumberland, PA 17857	J. Michael Hemmer Louise A Rinn Union Pacific Railroad Company 1400 Douglas Road, Stop 1580 Omaha, NE 68179
George H. Kleinberger P.O. Box 8002 Clifton Park, NY 12065	Ronald E. Fittrow 500 Water Street Jacksonville, FL 32202

<p><b>D.J. Lewis</b>  Director of Marketing  Tuscola &amp; Saginaw Bay Railway  Company  308 West Main Street  Matthews Building, Suite 303  Owosso, MI 48867</p>	<p><b>Paul Guthrie</b>  Canadian Pacific Railway Company  401 9th Avenue, S.W.  Gulf Canada Square, Suite 500  Calgary, Alberta T2P 4 Z4 Canada</p>
<p><b>Samuel M. Sipe, Jr.</b>  Carolyn D Clayton  Steptoe &amp; Johnson LLP  1330 Connecticut Avenue, N.W.  Washington, D.C. 20036</p>	<p><b>Robert H. Wheeler</b>  General Counsel  Wisconsin Chicago Link Ltd.  17641 Ashland Avenue  Homewood, IL 60430</p>
<p><b>Terence M. Hynes</b>  Sidley Austin Brown &amp; Wood, LLP  1501 K Street, N.W.  Washington, D C. 20005</p>	<p><b>Thomas J. Litwiler</b>  Fletcher &amp; Sipple LLC  29 North Wacker Drive  Suite 920  Chicago, IL 60606</p>
<p><b>Michael F McBride</b>  Leboeuf Lamb Greene &amp; MacRae  1101 New York Avenue, N.W  Suite 1100  Washington, D.C. 20005</p>	

  
\_\_\_\_\_  
Stephen C. Skubel